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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,566	03/02/2004	Axel E. Elfner	END920030098US1	3099
30400	7590	08/20/2007	EXAMINER	
HESLIN ROTHENBERG FARLEY & MESITI P.C. 5 COLUMBIA CIRCLE ALBANY, NY 12203			POLLACK, MELVIN H	
ART UNIT	PAPER NUMBER			
	2145			
MAIL DATE	DELIVERY MODE			
08/20/2007	PAPER			

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No.	Applicant(s)
	10/791,566	ELFNER, AXEL E.
	Examiner	Art Unit
	Melvin H. Pollack	2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 March 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-29 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 02 March 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/2/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input checked="" type="checkbox"/> Other: <u>see attached office action</u> . |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 22-29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. “An article of manufacture comprising at least one computer usable medium having computer readable program code logic...” may be reasonably construed as software per se or signals per se.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 8, 10, 11, 13-18, 20-27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Afergan et al. (2004/0010601) in view of Yoshida (2004/0049546).

5. Afergan teaches a method and system (abstract) of sending communications from a data structure in a restricted network (Paras. 1-20), and receiving communications by an external communications unit the communications (Paras. 21-24), the receiver being an intermediary (Paras. 25-26), the data structure including a mail server (Para. 28). In this way, only the external communications network may receive communications from the restricted network (Paras. 27-30), and only via the available port (Paras. 31-39).

6. Afergan does not expressly disclose the checking to see if mail should be delivered, whether by the external communications network or by the internal restricted network program. Yoshida teaches a method and system (abstract) of mail delivery (Paras. 1-23) to an intermediary from a server on a restricted network (Paras. 24-26) that comprise the missing limitations (Paras. 27-51). At the time the invention was made, one of ordinary skill in the art would have added Yoshida's system to flesh out Afergan's mail server functionality and to reduce Afergan's mail server loads (Para. 5).

7. Claims 7, 19 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Afergan and Yoshida as applied to claims 1, 4, 6, 13, 16, 18, 22, 25, and 27 above, and further in view of Banister et al. (7,219,131).

8. Afergan and Yoshida do not expressly disclose using a queue program to receive mail from another program. Yoshida teaches a method and system (abstract) of determining e-mails for appropriate delivery (col. 1, line 1 – col. 5, line 65; col. 20, line 33 – col. 28, line 25) that includes delivery decision making procedures (col. 5, line 65 – col. 20, line 33), and includes the queuing procedure (col. 10, line 50 – col. 12, line 40). At the time the invention was made, one of ordinary skill in the art would have added these features in order to protect from the security problem known as spam (col. 2, line 50 – col. 3, line 5).

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Afergan and Yoshida as applied to claims 1, 8 above, and further in view of Mizuno et al. (2006/0031927).

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10. Afergan and Yoshida do not expressly disclose that the receiver is an intended recipient. Mizuno teaches a method and system (abstract) of transferring communications data (Paras. 1-25) from a restricted network to an external server (Paras. 26-30) that includes this limitation (Paras. 31-34). At the time the invention was made, one of ordinary skill in the art would have added Mizuno in order to improve seamless access to files behind an Afergan firewall (Paras. 13-14).

11. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Afergan and Yoshida as applied to claims 1, 8, 11 above, and further in view of Clarke et al. (7,043,240).

12. Afergan and Yoshida do not expressly disclose that the manner in which a message is sent to a receiver is dependent on the type of receiver. Clarke teaches a method and system (abstract) of providing the messages (col. 1, line 1 – col. 3, line 55) that comprise the limitations (col. 3, line 55 – col. 7, line 30). At the time the invention was made, one of ordinary skill in the art would have combined the inventions in order to handle a variety of protocols (col. 1, lines 15-55).

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They regard further teachings on restricted networks and mail server operations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin H. Pollack whose telephone number is (571) 272-3887. The examiner can normally be reached on 8:00-4:30 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melvin H Pollack
Examiner
Art Unit 2145

MHP
16 August 2007

